



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ON

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,614	01/04/2002	Larry B. Gray	1062/C54	6784

2101 7590 08/26/2003
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 08/26/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/037,614	GRAY ET AL. <i>CF</i>
	Examiner Matthew F DeSanto	Art Unit 3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 June 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kriesel (USPN 6063059)

Kriesel discloses an infusion pump comprising a barrel (114, 116) with a clearance hole, a rotating drive screw (175) with exterior threads, and a plunger rod (170, 137) with threads. (Figures 18-33 and entire reference)

As to claim 2, wherein the pump further includes a reservoir (130) with variable volume including a plunger (138) in engagement with the plunger rod, and a locking hub (142, 120) in mechanical connection with the reservoir and the barrel. (Figures 18-33 and entire reference)

As to claim 4, wherein the barrel further includes a locking tab (180). (Figures 18-33 and entire reference)

As to claim 5, wherein the barrel includes a locking tab and the locking hub includes a flange. (Figure 21, [Ref #. 120,183] and entire reference)

Art Unit: 3763

As to claim 7, wherein the locking hub further includes an adapter (116) for receiving the reservoir. (Figures 18-33 and entire reference)

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Moberg (USPN 6248093)

Moberg discloses an infusion pump comprising a barrel (406) with a clearance hole, a rotating drive screw (901) with exterior threads, and a plunger rod (905,902) with threads. (Figures 4-9, 11,12 and entire reference)

As to claim 2, wherein the pump further includes a reservoir with variable volume including a plunger (407, 424) in engagement with the plunger rod, and a locking hub (431) in mechanical connection with the reservoir and the barrel. (Figures 4-9, 11,12 and entire reference)

As to claim 4, wherein the barrel further includes a locking tab (431). (Figures 7a, 11, 12 and entire reference)

As to claim 5, wherein the barrel includes a locking tab and the locking hub includes a flange. (Figures 11, 12 and entire reference)

Response to Arguments

4. Applicant's arguments filed 6/13/03 have been fully considered but they are not persuasive.

5. With regards to Moberg (USPN 6,248,093), the applicant states that the plunger rod must be disengageable and that Moberg does not teach this. The examiner

disagrees with this statement and points the applicant to Column 11 lines 25-40 of Moberg.

6. With respect to Kriesel (USPN 6,063,059), the applicant states that the plunger rod does not have any threads, and that the threads do not engage the drive screw. The examiner once again disagrees with the applicant, the plunger rod consists of reference number 170 and 135, and since reference number 135 is threaded to the outside house and the drive screw this reads on the limitation and therefore anticipates the claimed invention.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3763

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.


Matthew DeSanto
Art Unit 3763
August 21, 2003



MICHAEL J. HAYES
PRIMARY EXAMINER